

## MEETING MINUTES CITY OF MILPITAS

**Minutes of:** Regular & Special Meetings of Milpitas City Council  
**Date:** Tuesday, March 5, 2019  
**Time:** 6:00 PM Special Meeting  
7:00 PM Open Session – Regular Meeting  
**Location:** Council Chambers, Milpitas City Hall,  
455 East Calaveras Blvd., Milpitas

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### CALL TO ORDER SPECIAL MEETING

Mayor Tran called special meeting to order at 6:07 PM. City Clerk Mary Lavelle called the roll.

**PRESENT:** Mayor Tran, Vice Mayor Dominguez, Councilmembers Montano, Nuñez and Phan

**ABSENT:** None

### APPROVAL of SPECIAL MEETING AGENDA

By motion of Councilmember Nuñez and seconded by Councilmember Montano, the Council approved the special meeting agenda on a unanimous vote.

### PRESENTATION

Mayor Tran proclaimed March 2019 as Youth Arts Month, and presented the proclamation to Jennifer Jentzen of the Santa Clara County Office of Education.

### PUBLIC FORUM

None

### ANNOUNCEMENT

City Attorney Chris Diaz asked if Councilmembers had any conflict of interest on the agenda item and all replied no.

### 1. Citywide Community Engagement 2019 Survey

Public Information Officer Jennifer Yamaguma introduced Curtis Below of the FM3 consulting firm, who gave a presentation on the recently conducted survey of Milpitas community residents. He detailed the methodology, questions asked in nearly 800 interviews, in various languages, asking residents their opinion on city services, staff and officials, infrastructure, government, communication and related matters.

Results overall were quite positive, as he revealed with various data, including comparisons to some neighboring communities, e.g. 76% of respondents would recommend to others they know to live in Milpitas. Survey was conducted in January 2019 with 788 interviews.

City Councilmembers commented on the information presented and thanked Mr. Below.

### ADJOURNMENT

Mayor Tran adjourned the Special Meeting at 7:12 PM.

Mayor Tran said City Council would take a short break before the regular meeting started.

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### CALL TO ORDER REGULAR MEETING

Mayor Tran called regular meeting to order at 7:25 PM. City Clerk Mary Lavelle called the roll.

**PRESENT:** Mayor Tran, Vice Mayor Dominguez, Councilmembers Montano, Nuñez and Phan

**ABSENT:** None

### PLEDGE OF ALLEGIANCE

Two members of Boy Scouts Troop No. 92 and one from Troop No. 110 presented the colors and led the pledge of allegiance.

## INVOCATION

Councilmember Montano offered a prayer to start the meeting.

## PUBLIC FORUM

Rob Means, resident, read from news in The Washington Post related to the President.

A man, resident, commented on what he heard about a County Supervisor's proposal for a homeless shelter in Milpitas. He'd contacted Supervisor Dave Cortese about it. He read aloud an email response and wanted to know how the City Council would protect the City.

The City Manager said the Director of Building & Housing could update the speaker.

Vice Mayor Dominguez invited the public to visit the city website on this issue, and the city was actively involved in the conversation on the issue of "Hope Village."

Councilmember Nuñez requested when the Council meets again, to put the topic on the agenda, and if there was something the City could put out, staff was working to resolve the issue and communicate to get this out.

Voltaire Montemayor, resident, spoke of the survey, thanked the Council for the special meeting, March as Arts for Youth month, and urged all to reduce homelessness.

## ANNOUNCEMENTS

None

## ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

The City Attorney asked Councilmembers if they had any personal conflicts of interest or reportable campaign contributions. By roll call, none were reported.

## APPROVAL OF AGENDA

Motion: to approve the meeting agenda, as submitted

Motion/Second: Councilmember Nuñez/Councilmember Phan

Motion carried by a vote of: AYES: 5  
NOES: 0

## CONSENT CALENDAR

Motion: to approve the Consent Calendar including agenda items no. C1 and C3 - C7

Councilmember Nuñez requested to remove item no. C2 (meeting minutes).

Motion/Second: Councilmember Montano/Vice Mayor Dominguez

Motion carried by a vote of: AYES: 5  
NOES: 0

Mayor Tran wanted to hear agenda item no. 10, after no. 2 in the order of items.

### \*1. Council Calendars

Accepted City Council calendar for March 2019.

### 2. Meeting Minutes

Councilmember Nuñez asked questions about item no. 14 (MidYear FY 2018-19 budget) on the February 19 meeting minutes. Staff clarified to him that what he inquired about was action on the mid-year budget update that would be reflected in the meeting minutes of February 26, 2019 special City Council meeting, to be presented on a future meeting agenda.

Motion: to approve City Council meeting minutes of February 19 and 22, 2019

Motion/Second: Councilmember Nuñez/Councilmember Montano

Motion carried by a vote of: AYES: 5  
NOES: 0

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| *3. Adopt a Resolution               | Adopted Resolution No. 8848 to initiate proceedings for the Annual Levy and Collection of Assessments and Ordering the Preparation of the Annual Engineer's Report for Landscaping and Lighting Maintenance Assessment District No. 95-1, McCarthy Ranch.   |
| *4. Adopt a Resolution               | Adopted Resolution No. 8849 to initiate proceedings for the Annual Levy and Collection of Assessments and Ordering the Preparation of the Annual Engineer's Report for Landscaping and Lighting Maintenance Assessment District No. 98-1, Sinclair Horizon. |
| *5. PFA & Council: Adopt Resolutions | Adopted Resolution No. PFA 24 and City Council Resolution No. 8850 authorizing investment of monies in the Local Agency Investment Fund, to update officers' information and signatures.  |
| *6. Out of State Travel              | Authorized out of state travel for Assistant Police Chief Kevin Moscuza to attend the FBI National Academy Graduation in Quantico, VA on March 14-16, 2019.   |
| *7. RFP for Digital Billboard        | Directed the City Manager to issue a Request for Proposals from qualified vendors to construct and manage a digital billboard on City-owned property at the northern terminus of Barber Lane.   |

## 8. 2019 Weed Abatement

Mr. Moe Kumre from the County agriculture office was present to answer any questions.

Voltaire Montemayor, resident, said abatement was an important function, along with public safety to solve the weeds problem.

Motion/Second: Councilmember Phan/Councilmember Nuñez

(2) Motion: to adopt Resolution No.8851 directing the County of Santa Clara Consumer and Environmental Protection Agency - Weed Abatement Program to abate the nuisance, keep an account of the cost, and embody such account in a report and assessment list to the City Council in accordance with the Milpitas Municipal Code

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| <p><b>9. Adopt a Resolution to Establish Affordable Housing Fee</b></p> | <p>Building &amp; Housing Director Sharon Goei presented background information on how the city got to this point, requesting adoption of fees. This followed an important nexus study conducted by Keyser Marston for several cities and a county. City Council adopted an affordable housing ordinance on June 19, 2018, requiring 15% units for affordable housing in all new developments. She discussed residential versus commercial development fees for affordable housing.</p> |
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Councilmember Nuñez asked staff questions about the intent of 2015 resolution adopted by City Council, with the 5% fee requirement only on new development applications. City Attorney Diaz responded on past Council action.

Ms. Goei continued stating that staff proposed a fee of \$33 per ownership unit, across the board for residential in-lieu fees, for all types of structures (single family, townhome, condo or apartment) and to make it effective July 1, 2019 – at the start of the new fiscal year.

Economic Development Director Alex Andrade addressed the Council on the non-residential (commercial) impact fees. Consultant Keyser Marston recommended a fee of \$4-\$8 per square foot. Fees varied widely across Silicon Valley cities and examples were given, in particular regarding City of Fremont.

Next, Mayor Tran opened the public hearing.

Huascar Castro, from Silicon Valley at Home, thanked staff for outreach work and engagement, and his group supported these fees as proposed and modeled on City of Fremont. He did not support exemption for Class A spaces while \$33 across the board for residential, he supported.

Allyson McDonald, resident, supported what the previous speaker said. Housing was really needed for the many people who come to Milpitas to work. She was concerned about staff proposed fees for commercial building that was less than Fremont – the City needed the higher fee. She said it was better to set fees at a level that would encourage developers to build the affordable units from the start.

Voltaire Montemayor, resident, talked about three participants, cannot deter developers, and the need to help workers to live here.

Armando Gomez, representing McCarthy Ranch and its coming projects, addressed non-residential developer fees and impact on its plans. He was glad to be able to work with staff over the last few months. He and McCarthy appreciated the staff recommendation on the commercial fees, which would be competitive.

(1) Motion: to close the public hearing, following four speakers

Motion/Second: Councilmember Montano/Councilmember Nuñez

Motion carried by a vote of: AYES: 5  
NOES: 0

Councilmember Nuñez had many questions for staff. A Keyser Marston representative responded to him about the 2015 nexus study. Mr. Nuñez did not want to allow exemptions on the commercial side, as staff proposed.

Councilmember Phan asked about fees proposed for non-residential impact fees. He wanted to go with the Fremont model (not the slightly lower rates staff proposed). Phase it in, like City of Fremont. He asked if exemptions would have a sunset date, which he encouraged.

Councilmember Montano asked questions about units and build out in the Transit Area. She supported the residential fees as proposed, the Fremont model on commercial fee, and Mr. Phan's idea to sunset the exemptions recommended.

Vice Mayor Dominguez asked if the sunset of commercial fees would affect projects in the queue. She commented further and was in support of the fees proposed, and following Fremont on commercial rates. She did not support any exemption.

Mayor Tran commented, and supported the suggested fees for affordable housing. He saw a need for Class A office space, so he supported staff's request to exempt that from fees.

Motion: to receive the staff report and adopt Resolution No. 8852 - with modifications - establishing residential (\$33) and non-residential (based on City of Fremont, up to \$8.00 commercial and \$4.00 industrial) affordable housing fees and integrating the fees into the City's

Master Fee Schedule and making findings of CEQA exemption, and not to include any exemptions on commercial fee

Motion/Second: Councilmember Phan/Vice Mayor Dominguez

Motion carried by a vote of: AYES: 5  
NOES: 0

## **COMMUNITY DEVELOPMENT**

### **10. Presentation by BAAQMD Staff re: Odor**

This item was heard immediately following the consent calendar.

City Engineer Steve Erickson gave a presentation updating City Council on recent actions related to odor monitoring and mitigation, and work of South Bay Odor Stakeholders Group, including community air monitoring program.

Public Works Director Tony Ndah responded to Councilmember Montano about the odor monitoring devices. Councilmembers Nuñez and Phan addressed questions to Mr. Ndah on the odor monitoring program.

Mr. Erickson introduced two men from Bay Area Air Quality Management District. Mr. Jack Broadbent, executive officer of the District, addressed the Council about odor issues and started with some history and background about the District, headquartered in San Francisco. Mr. Wayne Kino, Deputy Air Pollution Control Officer, was also present. Both men responded to questions from the City Council. They described a comprehensive study to learn what sources caused the odor in Milpitas.

Eric Stevenson, meteorologist, came up to reply to questions from Mr. Phan and Mayor Tran. Mr. Kino complimented the active citizens in Milpitas, who'd helped identify potential sources of odor in the city.

Next, Mayor Tran invited speakers from the audience.

Anthony, resident of more than 10 years, expressed thanks to Mayor Tran and Councilmember Nuñez recognizing the importance of the odor problem, and need for the study.

Ray Zhang, 18 year resident, recalled the landfill smell about twice a year when he first lived in the City. Smell was better now but not fully controlled. He wanted to hear about high tech.

Antoinette Stein, resident, had a PhD in air quality, and urged some testing in or near schools.

Voltaire Montemayor, resident, noted the smell at Newby, not sure about limiting sources and a need to cover sources to reduce the smell.

A woman ask the agency to update existing odor reporting method, via its 1-800 number. She urged having a mobile app since that was more modern. She would like regular updates to the community about the odor monitoring study.

George Liu, resident, said most recently it's been challenging to live here due to the smell, which was not always how it was in the past.

Mr. Tran, resident of more than 15 years, felt the current system to report odor did not work well. So come up with a new system after odor monitoring.

Jessica, lived in city more than 20 years, said this issue was very important to residents. City Manager could provide more data.

Ethan lived in city more than 10 years and heard good news from the District this evening. Detectors data should be accessible by the public, including via mobile app.

A man, resident of five years, had experience the odor problem. Appreciated there would be a study on odor. Had questions for Mr. Broadbent.

Fa, lived in Milpitas for 19 years, said to BAAQMD, that multiple sources were sharing waste streams. She wanted to understand how district would figure out sources if that was true.

Ling Kong, resident over 12 years, thanked City Council and Kansen Chu's office, noted there were lots of violations noted over last five years. But it was taking awfully long time to address and fix those. Need to expedite the situation. Mr. Broadbent commented in response.

Ken, resident of Milpitas, said nobody was denying the issue of odor. He did not see any real enforcement of violations noted. More data, more studies were needed and he wanted action.

A man, resident, commented on landfill contributing to air pollution, and water pollution.

A woman said thank you for having this issue discussed, and it was not easy with this process. Talked about data analysis. Publish the data, she urged.

Anurag Pal, from Assemblymember Kansen Chu's office, thanked BAAQMD, and the issue of odor was a major concern to Mr. Chu. He would continue to introduce legislation for actions.

Cindy, lived in City for 16 years, and concerned for the odor issue for a long time. How would Council decide to resolve the issue of odor (not passive solution)? Landfill was too close to the city.

Robin Chen, resident, referred to a past meeting on odor concerns, with BAAQMD. Heard about a mobile truck for monitoring odor back then. Mr. Kino responded to her question.

Dwayne Vanluden, resident, spoke about different jurisdictions for differing odor sources. Wanted to confirm that all odor complaints now should go in to BAAQMD hotline, and Mr. Broadbent said yes.

A man, lived in South Fremont, was part of odor group for some time. Studied particulate matters. He said sensor networks would provide good solid data, and then make progress.

Mayor Tran thanked the guests from BAAQMD who came to the meeting.

Motion: to accept odor update and receive the presentation from Bay Area Air Quality Management District staff

Motion/Second: Vice Mayor Dominguez/Councilmember Montano

Motion carried by a vote of: AYES: 5  
NOES: 0

**11. Contract with Alta Planning for 3<sup>rd</sup> floor City Hall layout design**

Councilmember Nuñez commented on why he did not support the staff recommendation, and said he would not support the expenditure. He'd rather support the cost for three Community Service Officers for the police department instead.

Councilmembers and the Mayor commented additionally on staff recommendation for the contract for design services for the third floor of City Hall, without consensus to support the contract. There was not full support for re-design of the offices, as proposed, nor to spend City funds on the project.

Without support, and no motion made, no vote was taken on this item.

**12. Preview Next Agenda**

Council reviewed and discussed items for the March 19 Regular City Council meeting agenda.

**ADJOURNMENT**

Mayor Tran adjourned the meeting at 11:12 PM.

**The foregoing minutes were approved by Milpitas City Council on March 19, 2019.**

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**Mary Lavelle**  
**Milpitas City Clerk**